



BILLING CODE 3410-34-P

## **DEPARTMENT OF AGRICULTURE**

### **Animal and Plant Health Inspection Service**

**[Docket No. APHIS-2018-0064]**

#### **Environmental Assessment; Southwestern Willow Flycatcher Conservation Program**

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of intent to conduct a scoping process and prepare an environmental assessment.

**SUMMARY:** We are advising the public that the U.S. Department of Agriculture (USDA) and its sub-agency, the Animal and Plant Health Inspection Service (APHIS), are considering developing a conservation program pursuant to the Endangered Species Act for the southwestern willow flycatcher, a small, neotropical migrant bird found in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah. We are also planning to prepare an environmental assessment to analyze the effects of the proposed conservation program. This notice identifies potential issues, alternatives, and conservation measures that USDA and APHIS propose to review, and requests public comments to determine the relevant scope of issues and range of alternatives to be addressed in the environmental process from individuals, organizations, Tribes, and government agencies on this topic.

**DATES:** We will consider all comments that we receive on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to

<http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0064>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2018-0064, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2018-0064> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kai Caraher, Biological Scientist, PPQ, APHIS, 4700 River Road Unit 150, Riverdale, MD 20737-1231; (301) 851-2345; Kai.Caraher@aphis.usda.gov.

**SUPPLEMENTARY INFORMATION:**

Background

Saltcedar, also known as tamarisk (*Tamarix* spp.), is an invasive plant widely established in riparian areas in the western United States. This non-native weed, which can take the form of a shrub or small tree, was introduced into the United States in the latter 19th century. Although saltcedar is an invasive plant, native animals have adapted to its presence.

In 2000, the Animal and Plant Health Inspection Service (APHIS) began issuing permits for the release of the tamarisk leaf beetle (*Diorhabda* species) for research and biological control of saltcedar. During May 2001, the United States Department of Agriculture's (USDA) Agricultural Research Service (ARS) released tamarisk leaf beetles from field cages into the

open environment at 10 sites. The beetles overwintered and defoliated saltcedar at Lovelock, NV, during 2002 to 2004. Further redistribution without permit was prohibited by APHIS.

In February 2004, Congress passed the Salt Cedar and Russian Olive Control Demonstration Act directing the Secretary of the Interior, working with other Federal agencies, to undertake saltcedar eradication demonstration projects. In 2005, APHIS initiated a biological control program for saltcedar defoliation in the northern United States using the tamarisk leaf beetle as the biological control agent. Although the beetle was released in limited locations outside of the habitat of the southwestern willow flycatcher (SWFL, *Empidonax traillii extimus*, a small, neotropical migrant bird found in Arizona, California, Colorado, Nevada, New Mexico, Texas, and Utah), greater than anticipated natural and intentional human-assisted movement of the beetle resulted in the presence of tamarisk leaf beetles in SWFL habitat. The beetle defoliates saltcedar trees as intended as a biological control agent; however, in SWFL habitat, nesting success can be adversely affected because the SWFL nests in the saltcedar.

After tamarisk beetles were discovered in SWFL habitat, APHIS terminated its saltcedar biological control program in 2010 and canceled release permits owing to the potential adverse effects to SWFL. APHIS reinitiated consultation with the U.S. Fish and Wildlife Service (FWS) on these actions, in compliance with section 7(a)(2) of the Endangered Species Act (ESA) and 16 U.S.C. § 1536(a)(2), and FWS concurred with APHIS' determination that these actions were not likely to adversely affect the SWFL.

On September 30, 2013, the Center for Biological Diversity filed a lawsuit against USDA, APHIS, ARS, the Department of the Interior (DOI), and FWS alleging that the APHIS saltcedar biological control program violated the National Environmental Policy Act (NEPA) and the ESA. On May 3, 2016, the Court granted the plaintiff's second of five claims, finding

that APHIS did not comply with the ESA section 7(a)(1), which requires Federal agencies to consult with DOI and “utilize their authorities in furtherance of the purposes of [the ESA] by carrying out programs for the conservation of endangered species and threatened species listed pursuant to [16 U.S.C. 1533]” 16 U.S.C. 1536(a)(1). On June 19, 2018, the Court ordered USDA and APHIS to publish proposed conservation program alternatives in compliance with ESA section 7(a)(1) and solicit public comments on the proposed alternatives. USDA and APHIS ultimately intend to prepare an environmental assessment (EA) for the conservation program, or an environmental impact statement (EIS) should it be appropriate.

The EA will examine the environmental effects of possible program alternatives including conservation measures available to USDA and APHIS, as well as a no action alternative. The EA will be used for planning and decision-making and to inform the public about the environmental effects of the various conservation actions.

#### Proposed Programmatic Alternatives

We are requesting public comment on the listed conservation program alternatives that may help us identify additional potential alternatives and environmental issues the EA should examine. Based on the comments that we receive, we may determine that we should prepare an EIS instead of an EA. In that case, we would notify the public of our intent to prepare an EIS in a notice published in the *Federal Register*.

The EA will be prepared in accordance with: (1) NEPA, (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500-1508), (3) USDA’s regulations implementing NEPA (7 CFR part 1b), and (4) APHIS’ regulations implementing NEPA (7 CFR part 372). APHIS requests that Federal, State, Tribal or local government entities who manage areas, or have jurisdictional control over sites or actions

under consideration as part of this conservation program, participate as cooperating agencies in this environmental risk analysis and development of the NEPA documents.

We have identified two alternatives for further examination in the EA:

No action. Under this alternative, USDA and APHIS would evaluate the current USDA and APHIS programs benefitting the SWFL and would not develop any new conservation programs for SWFL. For example, the USDA Natural Resource Conservation Service has restored 2,623 acres of SWFL habitat since 2012. This alternative represents the baseline against which a proposed action may be compared.

Conservation Program. Under this alternative, APHIS would develop a new conservation program that would have a beneficial impact on the SWFL. USDA and APHIS are considering a number of measures, listed below, that could comprise or be part of a new conservation program.

1. Riparian Restoration. Funding intensive third-party riparian restoration efforts or otherwise facilitating the mass planting of native vegetation at high-risk and medium-risk sites within the SWFL's occupied habitat to ensure that suitable habitat exists to mitigate the potential adverse effects of the beetles' defoliation of saltcedar in these areas, including but not limited to:

- Middle Rio Grande River, including sites at the Elephant Buttes Reservoir and the Bosque del Apache National Wildlife Refuge;
- Gila River (entire reach);
- San Pedro River, including sites from the Narrows to the Gila River confluence;
- Bill Williams River, including sites at the Alamo Lake margin, the Big Sandy confluence, and the Santa Maria confluence;
- Burnt Springs/Colorado River confluence within Grand Canyon National Park managed by the National Park Service;

- Colorado River Mile 274 within Grand Canyon National Park managed by the National Park Service;
- Pearce Ferry within the Lake Mead National Recreation Area managed by the National Park Service;
- Cottonwood Cove on the western shore of Lake Mohave within the Lake Mead National Recreation Area managed by the National Park Service;
- Lands within the Fort Mohave Indian Reservation along the Colorado River above and adjoining Topock Marsh and the Havasu Wildlife Refuge;
- Colorado River, including sites at the Chemehuevi Indian Reservation below Lake Havasu;
- Virgin River, including sites at Mesquite, Mormon Mesa, Littlefield, and St. George;
- Muddy River, including sites at Overton Wildlife Management Area to Lake Mead;
- Lower Colorado River, including sites from Glen Canyon Dam to Lake Mead, Davis Dam to Parker Dam, and Parker Dam to Imperial Dam;
- Verde River, including sites from Horseshoe Lake to Salt River;
- Roosevelt Lake;
- Santa Maria River, including sites upstream from U.S. Highway 93 and from Date Creek to Alamo Lake;
- Big Sandy, including sites from the USGS gage to Alamo Lake; and
- Lower Tonto Creek.

2. Tamarisk Leaf Beetle Surveying and Data Collection. Compiling and synthesizing the results of survey and data collection efforts to better understand the tamarisk leaf beetle's past and projected movements into SWFL habitat.

3. Geographic Information System (GIS) Habitat Mapping. Fund and assist with GIS mapping of saltcedar and native riparian cover across the southwestern United States—and specifically throughout the SWFL’s occupied range. APHIS may collaborate with the U.S. Geological Survey to improve a SWFL habitat assessment model that uses satellite imagery and create an online mapping platform for conservation groups and land management agencies to access the model results.

4. Educational Campaign. Continue current public outreach efforts and collaborate with Federal, State, Tribal, and local authorities to prohibit or strongly discourage any further intrastate movement, distribution, or release of tamarisk leaf beetles, as a means of slowing the beetle’s spread into farther reaches of SWFL habitat.

5. Streamlined Permitting Process. Collaborate with FWS and other relevant agencies to streamline the ESA permitting process for third parties engaged in restoration work to benefit SWFLs and their habitat.

6. Watershed Partnership Collaboration. Work cooperatively with, and provide restoration funding for, established watershed partnerships that have already developed detailed restoration plans, some of which are listed below.

7. Streamlined Funding Sources. Ensure that funding streams for restoration projects are in easily accessible structures such as block grants administered by the National Fish and Wildlife Foundation or a similar entity, rather than through cost share programs.

8. Information Repository. Fund and facilitate a long-term centralized and standardized information repository concerning the tamarisk leaf beetle, its spread, vegetative resources in the southwestern United States, and the SWFL’s status.

9. Invasive Weed Control. Conduct invasive weed control and monitoring in riparian areas where habitat restoration with native vegetation is planned or has been conducted. USDA and APHIS are currently considering the following areas, but are soliciting other potential restoration sites:

- Escalante River watershed in southern Utah restored by the Grand Staircase Escalante Partners;
- Areas of the Verde River from Paulden to Sheep's Crossing, AZ, restored by the Friends of the Verde River;
- Gila River in Graham and Greenlee Counties in New Mexico, restored by the Gila Watershed Partnership;
- Rio Grande in the Bosque del Apache National Wildlife Refuge in New Mexico; and
- Rio Grande in the Orilla Verde Recreation Area in New Mexico.

10. SWFL Data Collection Surveying. Fund data collection surveys throughout the range of the SWFL. Data collected by researchers may include but is not limited to: SWFL presence or absence surveys, determining breeding status for each bird, site evaluations and descriptions, SWFL nest searches, SWFL nest monitoring at breeding sites in order to calculate parasitism and predation rates, impact of habitat restoration efforts, and the amount of saltcedar defoliation caused by the tamarisk leaf beetle.

#### Potential Environmental Impacts

We have identified the following potential environmental impacts for further examination in the EA:



- Effects on wildlife, including consideration of migratory bird species and changes in native wildlife habitat and populations, and federally listed endangered and threatened species.
- Effects on soil, air, and water quality.
- Effects on human health and safety.
- Effects on cultural and historic resources.
- Effects on economic resources.

We welcome comments on the alternatives and environmental impacts or issues that should be considered for further examination in the EA. In addition, we welcome suggestions for conservation measures for APHIS to include in its conservation plan. Upon completion of the draft EA, we will publish a notice in the *Federal Register* announcing its availability and an invitation to comment.

Done in Washington, DC, this 22<sup>nd</sup> day of October 2018.

**Kevin Shea,**

*Administrator,*

*Animal and Plant Health Inspection Service.*

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